

Attorney's Docket: 2002DE130
Serial No.: 10/656,313
Group: 1713

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REMARKS

The Office Action mailed November 1, 2007, has been carefully considered together with each of the references cited therein. The amendment and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

CLAIM STATUS

Claims 1-5, 17, 21-23 and 40-42 are pending in this Application. By this Amendment, Applicants have amended claim 1.

Claim rejections under 35 USC § 112, First Paragraph

Claims 1-5, 21-23 and 40-42 stand rejected under 35 USC § 112, first paragraph as failing to comply with the written description requirement.

The Office is of the position that the negative limitation which was present in independent claim 1 does not have basis in the original disclosure. While not agreeing with the Office's position, Applicants have cancelled the negative limitation.

Claim Rejections Under 35 USC § 103

Claims 1, 23 and 42 stand rejected under 35 USC § 103(a) as being unpatentable over Weil et al. (US Patent 5,578,666) in view of Langford (US Pub. 2001/0011112). This rejection is respectfully traversed.

With respect to independent claim 1, the Office is of the position that "the prior art Weil et al. provides a flame retardant composition comprising organophosphate (Abstract)..." On the top of page 5 the Office admits:

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The difference between the inventions of claims 1, 23, 42 and Weil et al. is that Weil et al. are silent on a composition comprising an alkylalkoxyoxylate.

The Office attempts to invoke Langford for the teaching of an alkylalkoxyoxylate. However, the Office, courteously stated, is in error. In the Second Paragraph of page 5 of the Office Action the Office states as follows Langford (abstract; page 7, Table 4A) discloses a low dust composition comprising ethylene glycol phenyl ether which is an alkylalkoxyoxylate as claimed." (underlining added)

This statement by the Office, respectfully stated, is incorrect. Ethylene glycol phenyl ether is not an alkylalkoxyoxylate; it is, in contrast, an arylalkoxyoxylate. These are separate and disparate chemical compounds having different chemical formulas and functionalities.

In order to make a *prima facie* case of obviousness, it is beyond contention that each and every aspect of a claimed invention must be taught by the prior art. Here, the Office fails to establish a *prima facie* case for this exact reason. The prior art does not teach, disclose or suggest an alkylalkoxyoxylate as defined by independent claim 1. Given this deficiency, for at least this reason, it is respectfully submitted that the Office has not made a *prima facie* case of obviousness with regard to claim 1, and all claims depending there from.

The remainder of the Office Action speaks to the rejections of claims that are either directly or independently directed to independent claim 1. For at least the reasons advanced above with respect to the rejection of independent claim 1 over Weil et al. in view of Langford, it is respectfully contended that these rejections have been traversed.

In view of the foregoing, it is respectfully contended that the 35 USC § 103 rejection have been traversed. In consequence, Applicants courteously solicit reconsideration and withdrawal of the rejection.

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In view of the forgoing amendment and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the attorney for Applicants at the telephone number provided below.

Respectfully submitted,



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